

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE TRINIDAD VARGAS-LEON,

Defendant.

Case No. 18-02046-MJ-DPR

MOTION FOR DETENTION

The United States of America, by and through Timothy A. Garrison, United States Attorney for the Western District of Missouri, and the undersigned Assistant United States Attorney, respectfully requests that this Court order the detention of the defendant, Jose Trinidad Vargas-Leon. In support, the United States offers the following suggestions:

1. An indictment has been filed charging the defendant with being an alien, unlawfully in the United States, knowingly possessing in and affecting interstate commerce firearms and ammunition, in violation of Title 18, United States Code, Sections 922(g)(5) and 924(a)(2).
2. Title 18, United States Code, Section 3142(f)(2) provides that a hearing shall be held by the appropriate judicial officer to determine whether any condition or combination of conditions will reasonably assure the defendant's appearance and the safety of any other person in the community upon a motion of the attorney for the Government or upon the judicial officer's own motion, when there is a serious risk that the defendant will flee, or when there is a serious risk that the defendant will "obstruct or attempt to

obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror.”

3. Regarding the defendant’s risk of non-appearance, the defendant currently has an immigration detainer that has been lodged with the U.S. Marshal Service. The existence of an ICE detainer by itself is not a categorical, per se basis for detention because the Bail Reform Act creates no per se category of persons who must be detained, absent an individualized inquiry into the person’s risk of flight or danger to the community. However, the Court can consider the defendant’s status and existence of pending immigration proceedings as information relevant when considering other factors under the Act since they indicate prior noncompliance with federal law and thus are analogous to a prior criminal history. In this regard, the defendant is a citizen of Mexico, not lawfully present in the United States.
4. Regarding the danger this defendant poses to the community, the Government notes the defendant possessed firearms and ammunition, to include one Raven M-25, 25-caliber semi-automatic pistol, serial #889787; one Hi-Point CF380, 380-caliber semi-automatic pistol; serial #P8024690; twenty-seven rounds of .25 Auto ammunition; eleven 20-gauge shot shells; forty rounds of .25-06 Remington ammunition, forty-three rounds of .380 ACP ammunition, thirty-eight rounds of .40 S&W ammunition, one round of 9mm Luger ammunition, and one round of 17-caliber ammunition.
5. Finally, the evidence of the defendant’s guilt is overwhelming. *See* 18 U.S.C. § 3142(g)(2).

Based upon the foregoing, the United States submits that there is clear and convincing evidence that the defendant poses a danger to the community, and a preponderance of the evidence

indicates that there are no conditions the Court could impose that would reasonably assure the defendant's presence at trial. The Government therefore respectfully requests that a detention hearing be held, and that the defendant be detained pending trial of this matter.

Respectfully submitted,

TIMOTHY A. GARRISON
United States Attorney

By: /s/ Steven M. Mohlhenrich
STEVEN M. MOHLHENRICH
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on July 23, 2018, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

/s/ Steven M. Mohlhenrich
STEVEN M. MOHLHENRICH
Assistant United States Attorney